

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, DC 20554

MAY 30 1996

\_\_\_\_\_  
 In the Matter of \_\_\_\_\_  
 Implementation of the Local Competition \_\_\_\_\_  
 Provisions in the Telecommunications Act \_\_\_\_\_  
 of 1996 \_\_\_\_\_  
 \_\_\_\_\_

CC Docket No. 96-98

May 30, 1996

**REPLY COMMENTS OF**  
**CONSUMER PROJECT ON TECHNOLOGY**  
**ON INTERCONNECTION AND UNBUNDLING**

**A. Introduction**

1. The Consumer Project on Technology offers reply comments on the Commission's Notice of Proposed Rulemaking (NPR) on the above captioned proceeding addressing the interconnection and unbundling provisions of the Telecommunications Act of 1996 ("1996 Act"). Our comments are supportive of those filed earlier in this docket by the **Information Technology Industry Council (ITI)**. ITI urged the Commission to take steps to facilitate deployment of high bandwidth services by providing national uniform parameters that encourage new competition for services such as ISDN, ADSL or HDSL. We agree with ITI that there is significant unmet demand for the provision of high bandwidth services for the residential market, and that national uniform parameters for interconnection, collocation and pricing are important.

2. The Consumer Project on Technology is a non-profit organization which was started by Ralph Nader to promote the consumer interest in matters concerning the development of new technologies, including information technologies. For additional information about CPT see our Web page at <http://www.essential.org/cpt>.

**B. Unmet Demand for High Bandwidth Services for Residential Market.**

3. According to the ITI pleadings, more than one third of all U.S. homes have one or more personal computers, and most new computers sold today are equipped with analog modems. Analog modems are a very inefficient device for network connections. Not only are analog modems relatively slow when compared to off-the-shelf digital technology (28.8 Kbps for analog modems versus 128 Kbps for BRI ISDN), but the analog connections are less reliable, and suffer from a much more time consuming launch and connect (and disconnect) times than ISDN or other digital technologies. High quality audio, usable video

conferencing, and even browsing on graphic intensive Internet Web pages requires faster network connections that can be delivered over Plain Old Telephone Service (POTS). End-to-end digital lines can also support JAVA and other new methods of pushing network intelligence out to a decentralized base of users.

4. The most likely new technologies for delivering higher bandwidth connections to the home market are cable modems or a variety of digital services delivered over the copper wire infrastructure. Early optimism about deployment of cable modems has given way to more realistic mid-term pessimism. Less than 10 percent of cable systems currently support any type of interactive communications. Even under optimistic scenarios for deployment, it is very unlikely that a majority of homes would be passed by cable systems that can offer cable modem technology within a period of 5 to 7 years.

5. The only ubiquitous high speed digital network connection for the residential market today is BRI ISDN, but the incumbent local exchange carriers (ILECs) are reluctant to deploy the technology, or price it reasonably. Companies like Bell South, Bell Atlantic, US West, NYNEX and SBC are pricing residential ISDN service between five and twenty times the cost of POTS (in packages likely to satisfy most residential ISDN users), too high for all but a handful of residential consumers. The premiums charged for ISDN service are far in excess of the company's long run incremental costs (LRIC) for upgrading POTS to ISDN.

6. For example, in a recent Commission proceeding, U.S. West estimated that the monthly non-traffic sensitive cost of its BRI ISDN lines was only \$1.18 per month more than the cost of its POTS lines. (U.S. West, "Comments: in the Matter of End User Common Line Charges," FCC CC Docket No. 95-72, June 29, 1995, Appendix A.). However, US West tariffs for BRI lines are several multiples of its POTS charges. For example, in Utah a residential ISDN users would pay from \$39 to \$149 per month for BRI ISDN (plus a \$6 SLC), with \$74 per month the most likely tariff (based upon the US West pre-paid usage options and the \$6 SLC). As a result, very few Utah consumers have BRI ISDN service. Indeed, US West reported that as of March 1996, it had only installed 53 BRI ISDN lines.

7. In some states, residential ISDN tariffs are even higher. We have heard from a consumer in Delaware (Bell Atlantic) who was billed more than \$1,000 for a month of local calls for BRI service, and a consumer in Massachusetts (NYNEX) received a bill for more than \$700 for local calls. These higher tariffs have hurt ISDN deployment. Earlier this year Bell Atlantic said it had less than 300 residential consumers for BRI ISDN service in Maryland, a state with a huge interest in modern telecommunications. PacBell recently sought large increases in its residential ISDN tariff, and eliminated commissions on residential ISDN BRI connections to its sales force.

8. ISDN tariffs are highly varied from state to state, and residential consumers are completely dependent upon pricing strategies of local ILECs and state regulators. For example, the Northern Arkansas Telephone Company (NATCO) charges only \$17.90 per month, flat rate, for residential ISDN service. The Roseville Telephone Company, the 23rd largest telephone company in the US, which serves California's southern Placer County and northern Sacramento County, sells residential ISDN at \$29.50 for unlimited usage. Four of the five Midwest states served by Ameritech (Illinois, Ohio, Michigan, and Wisconsin) have

flat rate residential ISDN for \$28 to \$35 per month. But in Indiana, Ameritech charges residential consumers \$100 to \$1,829 for ISDN service. BellSouth charges less than \$30, flat rate, for ISDN in Tennessee (a state where a key regulator was an ISDN user), and \$57 to \$75 per month elsewhere. Bell Atlantic's unlimited usage option for residential users runs from \$249 to \$1,200 per month, depending upon the state. In the US West service area, the unlimited usage options are all over the map: \$40 in New Mexico, \$63 in Washington State, \$149 in Utah (the proposed tariff), and \$2,309.64 in Oregon (a state without a flat rate option).

9. When the iLEC charges ISDN usage fees, prices are also highly arbitrary, providing striking evidence of monopoly power. For example, Bell Atlantic (BA) basic proposed usage charge for residential ISDN is \$1.20 to \$2.40 per hour, for a 2B ISDN connection. However, under its new "call pack" options, which is only available in some states, BA charges \$.75 to \$.30 per hour for ISDN (2B) usage. In recent rate cases for ISDN Centrex, BA said that its usage costs for ISDN voice service (the same technology as is used for data) were less than \$1 per month. In Delaware, the PSC staff said that the residential ISDN tariff should include a \$1.60 per month flat rate option, which is a little more than a nickel per day for 2B service. Consumers (and implicitly, the value added content providers) who pay hefty usage fees are being ripped off.

10. US West usage rates are also highly varied. Last fall, US West tried to get \$12 per hour for a local ISDN call in Utah. The current standard US West usage charge is \$3.60 per hour (for 2B). In the newly proposed (but not yet implemented) Utah tariffs, some usage packages are priced at \$.90 to \$.22 per hour for 2B service. Cost studies in the Utah proceeding show that even the \$.22 per hour charges are far above cost. These high usage charges are efforts by the iLECs to "tax" value added services provided by unaffiliated companies. With iLEC entry into value added services, this will lead to anticompetitive business practices, since the iLECs can offer value added services at lower rates, since the usage charges at only transfer payments within the company.

11. In a competitive market consumers would not see such huge differences in residential ISDN tariffs. It is essential to adopt interconnect and unbundling rules which allow new entrants to use the local loop to provide ISDN and other newer digital services.

### **C. Explanations for iLEC's failure to deploy ISDN**

12. There are a number of theories as to why iLECs don't want to market ISDN as a mass market residential service. Here are some of the most popular:

- i) iLECs want to sell second POTS lines. (A BRI ISDN service provides the functionality of two POTS lines, including separate telephone numbers). For example, in Utah the best usage option for BRI ISDN service is priced approximately \$10 above the cost of two business POTS line.

- ii). iLECs hope to offer high speed Internet services, bundled with ISDN or ADSL services, and they do not want to provide a low cost alternative over a common carrier platform.
- iii) iLECs are concerned about cross-elasticities between BRI ISDN and other business services (such as US West's expensive commitment to frame relay ), or to expensive residential multimedia networks (most of which are still on the drawing boards).
- iv) iLECs are concerned about high quality Internet telephony delivered over ISDN or other digital home connections.
- v) In Utah, Scott Rafferty raised the general issue of centralization of network intelligence, and the fact that high quality end to end digital network connections allow this intelligence to be decentralized, much of it into the highly competitive market for customer premise equipment. This issue is analogous to the PBX/Centrex issue.

Of course, incompetence is also possible.

#### **D. New Digital Technologies.**

13. BRI ISDN is a digital technology that can be delivered today to the residential market. Newer technologies that may be available in 5 to 7 years in some communities include ADSL or HDSL. There is considerable interest in ADSL as a platform for Internet connections. While ADSL is more costly to deploy than ISDN, it may offer higher bandwidth connections over the existing copper wire infrastructure. However, ADSL and other xDSL (the family of DSL services) services require special equipment and connections to information service providers. It is essential that iLEC competitors are able to receive services on a non-discriminatory basis, or the iLECs will monopolize services that are delivered over xDSL services. The rules for interconnection and unbundling should focus on how competition can develop for xDSL services.

14. ITI asked the Commission to adopt rules which require carriers to:

- i) unbundle local loops,
- ii) condition (when necessary) local loops to carry digital signals,
- iii) lease "dry copper" pair at reasonable prices (no greater than for POTS),
- iv) remove load coils at reasonable costs,
- v) cooperate in testing of xDSL services, and
- vi) otherwise make it possible and feasible to promote entry into advanced transport services delivered to the home.

These suggestions are very important. The FCC should not set rules with POTS only in mind.

#### **E. Collocation is Required and Needed for More than Basic Transmission Equipment.**

15. The Commission should reject the iLEC's efforts to limit the types of equipment that may be collocated on their premises. Collocation obligations of iLECs under the 1996 Act are not simply limited to "basic transmission equipment." Indeed, the Congress added language during its Conference committee which has expanded collocation obligations beyond those originally adopted in the Commission's *Expanded Interconnection* proceeding. While the versions of the bill which passed both the Senate and the House only required collocation consistent with its proceeding on interconnection [See, for example, H.R. Report No. 104-204, 104<sup>th</sup> Congress, 1<sup>st</sup> Session, pt. 1, at 73 (1995), which mentions the need to clarify the Commission's authority due to court challenges to the Commission's rules], the Conference Committee expanded the iLEC's duties, to require them to provide for "physical collocation of equipment necessary to interconnection or access to unbundled network elements at the premises of the local exchange carrier." By adding the additional phrase, "or access to unbundled network elements," Congress expanded the scope of collocation. The collocation equipment should not be restricted to traditional telephony. It should include equipment that may be needed for ISDN, ADSL, HDSL and other new technologies. This is also required by Section 706(a), which states that the Commission should "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans...by utilizing...methods that remove barriers to infrastructure investment." As noted earlier, it is not appropriate to adopt rules for collocation which apply to POTS only service.

#### **G. The Commission Should Avoid Usage Based Fees for Unbundled Services.**

16. One of the principle sins of the iLECs has been repeated efforts to impose usage based fees for fixed cost services. These usage based fees are largely designed as mechanisms for price discrimination, based upon expected differences in willingness to pay. This is possible because of the monopoly power of the iLECs. Any new unbundling requirements that are based upon usage charges for fixed cost services will further institutionalize a highly inefficient and socially undesirable pricing systems for the fixed cost aspects of the network.

#### **H. Unbundling Can Provide Important Yardstick Measurements.**

17. Unbundling is important, even if it isn't widely employed, because it will provide an important yardstick of true economic costs for the deployment of new services. Thus, for example, if new digital technologies are provided at much lower costs in some markets where collocation and unbundling occur, this will help regulators in other markets determine reasonable prices for new advanced network services, even when economic barriers to entry are so great that monopoly power remains. Indeed, we expect that competition for local residential services will be very limited over the next decade, and this yardstick benefit will be very important for those consumers who do not benefit directly from competition.

May 30, 1996

Sincerely,

A handwritten signature in dark ink, appearing to be 'James Love', written over a faint circular stamp or watermark.

James Love  
Director  
Consumer Project on Technology  
P.O. Box 19367  
Washington, DC 20036  
<http://www.essential.org/cpt>  
202/387-8030; fax 202/234-5176